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**SEP 23 2009**

In re Application of

Marc Beaujoin, et al.

Application No. 10/075,113

Filed: February 13, 2002

Attorney Docket No. 00GR227754352

**OFFICE OF PETITIONS**

**DECISION ON PETITION**

This is a decision on the petition, August 5, 2009, which is being treated as petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is GRANTED.

The above-identified application was held abandoned because the period for seeking court review of the decision by the Board of Patent Appeals and Interferences mailed July 7, 2009 had expired and there were no allowed claims. A Notice of Abandonment was mailed July 21, 2009.

Petitioner asserts that the Notice of Abandonment mailed July 21, 2009 be withdrawn as it was premature because the period for seeking court review of the decision by the Board of Patent Appeals and Interferences mailed July 7, 2009 had not expired.

MPEP 1214.06 states:

The time for seeking review of a decision of the Board by the Court of Appeals for the Federal Circuit or the U.S. District Court for the District of Columbia is the same for both tribunals, that is, 2 months, or 2 months with the extension provided by 37 CFR 1.304 in the event a request for rehearing is timely filed before the Board, or as extended by the Director.

As the period for seeking court review of the decision by the Board of Patent Appeals and Interferences had not expired prior to the filing of a Request for Continued Examination under 37 CFR 1.114 on August 5, 2009 the examiner did not follow the provisions of MPEP 1214.06. Accordingly, the Notice of Abandonment mailed July 21, 2009 is withdrawn as premature.

Telephone inquiries concerning this decision should be directed to April M. Wise at (571) 272-1642. All other inquiries concerning this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2117 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/dab/

David Bucci  
Petitions Examiner  
Office of Petitions